

**NEVADA DEPARTMENT OF
CONSERVATION & NATURAL RESOURCES**

STATE ENVIRONMENTAL COMMISSION

HEARING ARCHIVES FOR

REGULATORY PETITIONS

COMMISSION PETITION NO. 97006

LEGISLATIVE COUNSEL BUREAU (LCB) FILE NO. R-107-97

DOCUMENTS INCLUDED IN THIS FILE:

YES SECRETARY OF STATE FILING FORM

YES DISCLOSURE STATEMENT PURSUANT TO NRS 233B

REGULATORY PETITIONS

ORIGINAL DRAFTED BY COMMISSION

ADOPTED BY COMMISSION

YES AS FILED AND CODIFIED BY LCB

Secretary of State
Filing Data

For Filing Administrative
Regulations

For Emergency
Regulations Only

Effective Date _____

Expiration Date _____

Governor's Signature

State Environmental Commission

Classification [] Proposed [] Adopted By Agency [xx] Temporary [] Emergency []

Brief description of action: **Petition 97007 (LCB R-201-97)** amends Nevada Administrative Code (NAC) 445C to add regulations pertaining to allowing individuals and companies to conduct environmental audits in cooperation with regulatory agencies. The regulations provide for the consideration of reductions in penalties for criminal violations and the elimination of sanctions for civil and administrative actions. The proposed regulations define the audit agreement contents, scope and post audit reporting requirements.

Authority citation other than 233B: NRS 445C.120

Notice date: December 23, 1997, December 30, 1997, January 6, 1998

Hearing date: January 22, 1998

Date of Adoption of Agency: January 22, 1998

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED
BY ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066
PETITION 97006 (LCB R-107-97)**

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) 444. This regulation deals hazardous waste fees at the state owned facility at Beatty, Nevada.

1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.

Petition 97006 (LCB R-107-97), was noticed six (3) times: August 21, 1997, August 27, 1997, September 2, 1997 December 23, 1997, December 30, 1997 and January 6, 1998 as a permanent regulation in the Las Vegas Review Journal and the Reno Gazette-Journal newspapers. The public was also mailed the public notice through the Environmental Commission's mailing list. The Division of Environmental Protection also did a direct mailing to affected public agencies and businesses. A regulatory workshop was held on September 10, 1997 in Carson City. These workshops were included and published as part of the public notices for August and September 1997. No members of the public appeared at the public workshop. No members of the public spoke in favor or opposition to this regulation at the public hearing of January 22, 1998. Letters of supporting the petition were received from the Economic Development Authority of Esmeralda and Nye County (Exhibit #2 of September 23, 1997 hearing file), the Beatty Citizens Advisory Council (Exhibit # 4 of the September 23, 1997 hearing file), the Beatty Chamber of Commerce (Exhibit # 5 of the September 23, 1997 hearing file) and State Senator Mike McGinness (Exhibit # 7 of September 23, 1997 hearing file). A copy of the written comments may be obtained by calling the Nevada State Environmental Commission (702) 687-4670 extension 3117, or writing to the Commission at 333 W. Nye Ln., Room 138, Carson City, Nevada 89706-0851.

2. The number persons who:

- | | | |
|-----|---|----|
| (a) | Attended each hearing; | 38 |
| (b) | Testified at each hearing: | 25 |
| (c) | Submitted to the agency written comments: | 8 |

3. A description of how comment was solicited from affected businesses, a summary of their response, and a explanation how other interested persons may obtain a copy of the summary.

Comments were solicited from affected businesses by the notices in the newspapers, as outlined in #1 and by direct mail to interested persons subscribing to the Commission's mailing list. See above statement for dates and locations of workshops and notices. No written comments were received from affected businesses regarding the regulations at the workshop or public hearing of January 22, 1998. US Ecology, the operator at the facility, commented on the importance of making the facility cost competitive with surrounding state hazardous waste disposal facilities. US Ecology stated that the operation is a major employer in Beatty and that the modification to the rates would likely keep the facility competitive and open for another decade. A copy of the written comments may be obtained by calling the Nevada State Environmental Commission (702) 687-4670 or writing to the Commission at 333 W. Nye Ln., Room 138, Carson City, Nevada 89706-0851.

4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The permanent regulation was adopted by the State Environmental Commission without a request for amendment to the petition on January 22, 1998.

5. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:

- (a) Both adverse and beneficial effects: and
- (b) Both immediate and long-term effects.

The proposed regulation will have a beneficial economic effect on the company operating the Beatty facility and may allow the facility to continue to operate until it reaches capacity. Continued operation of the facility will benefit Nevada businesses that generate hazardous waste by providing an in-state disposal facility. The proposed changes will have a modest or negligible economic effect on the public. The local Beatty, Nye County economy benefits from the jobs and economic activity derived from the Beatty facility. Fees charged on the disposal of hazardous waste at the Beatty facility supports the Division of Environmental Protection's hazardous waste regulatory program.

6. The estimated cost to the agency for enforcement of the adopted regulation.

There will be no increased cost to the Division of Environmental Protection for enforcement of this regulation.

7. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

There are no other state or government agencies which the proposed regulation overlaps or duplicates.

8. If the regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

This regulations sets the fees for the facility and as such no federal regulations are affected.

9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

The proposed regulation would result in lower fees for disposal of imported hazardous waste that is regulated by the state of origin as hazardous waste but not federally regulated as hazardous waste. This fee establishes parity with California fees for treatment of hazardous waste. The fees are deposited in the State's hazardous waste management fund and are used to regulate, manage and cleanup hazardous waste in Nevada. The fee reduction will result in an competitive and sustaining regional hazardous waste disposal facility. Fees will be reduced by an average of 33 percent. The fee reduction will not affect the fees used to fund the closure and post closure monitoring of the State's facility.

END OF FILING STATEMENT FOR 97006 (LCB R-107-97)

ADOPTED REGULATION OF THE NEVADA STATE ENVIRONMENTAL COMMISSION

LCB File No. R107-97

EXPLANATION: Matter in *italics* is new language. Matter in [] is material to be omitted.

AUTHORITY: NRS 459.485, 459.500 and 459.510

Section 1. NAC Chapter 444.8452 is hereby amended to read as follows:

444.8452 1. The owner or operator of a facility for the management of hazardous waste shall, in addition to any other applicable fees, pay the following fees to the division to offset partially the cost of inspection and other regulation of the facility:

(a) [For] *Except as otherwise provided in paragraph (d), for the disposal, open burn, open detonation or incineration, including burning for the recovery of energy in boilers or industrial furnaces, [by the facility, \$20] of waste that is hazardous waste as described in paragraph (a) or (b) of subsection 2 of NAC 444.843, \$18.50* per ton of the volume received by the facility.

(b) Except as otherwise provided in paragraph (d), for the disposal of waste brought into this state that is hazardous waste as described in paragraph (c) or (d) of subsection 2 of NAC 444.843, but that is not otherwise designated as hazardous waste in accordance with 40 C.F.R. Part 261, \$3.00 per ton of the volume received by the facility.

(c) For the treatment or storage of a volume of hazardous waste without subsequent disposal, open burn, open detonation or incineration by the facility, \$5 per ton of the volume received by the facility, not to exceed a maximum fee of \$10,000 per calendar year if the waste treated or stored is waste generated at that facility.

(d) For the treatment and subsequent disposal of a volume of hazardous waste that is treated so that it is not hazardous waste pursuant to NAC 444.843, \$3.00 per ton of the volume received by the facility.

2. The owner or operator of such a facility shall:

(a) Calculate the amount of hazardous waste subject to the fees on a quarterly basis;

(b) Pay the fees provided in this section, based on the volume of hazardous waste received by the facility during each quarter of the calendar year, within 30 days after the end of each quarter; and

(c) Submit, with each payment, a detailed accounting of the volume of waste, which corresponds to the fee paid.

3. The division may assess a penalty of 2 percent of the unpaid balance for each month, or portion thereof, that a fee remains unpaid.

4. *The division may waive any part of the fees specified in subsection 1 for waste brought to a state-owned facility if the waste is generated:*

(a) By an agency of this state; or

(b) In compliance with an order issued by the division to clean up a spill or deposit.

5. As used in this section, "owner or operator of a facility for the management of hazardous waste" means a person who:

(a) Qualifies for interim status pursuant to 40 C.F.R. Part 270, Subpart G; or

(b) Has been issued a permit pursuant to 40 C.F.R. Part 124, Subparts A and B, and Part 270, Subparts A to F, inclusive.

End of LCB File No. R107-97